

Private Sector Involvement in Monitoring and Implementation

Both before and after the Convention was adopted, the U.S. government had actively sought to involve the private sector in efforts to combat the bribery of foreign public officials and support effective antibribery legislation. The U.S. private sector played a useful advisory role throughout the negotiation of the Convention, as well as during the congressional debates over the amendments to the FCPA. Private sector support proved to be of great importance in achieving international agreement on the Convention and encouraging signatories to pass implementing legislation. This productive collaboration has continued since the Convention came into force. The private sector is helping to publicize the Convention, bring attention to the problem of corruption and bribery in international business, and provide information on progress that signatories are making in combating unethical practices. The Clinton Administration is committed to working closely with the private sector in monitoring the Convention's implementation and enforcement.

In the Omnibus Trade and Competitiveness Act of 1988, Congress directed the executive branch to pursue an agreement with trading partners of the United States in the OECD to criminalize bribery of foreign public officials in international business transactions, along the lines of the FCPA. Since that time, the U.S. government has sought to involve the pri-

vate sector in antibribery initiatives. For the past twelve years, U.S. officials have met frequently with the private sector about international bribery and have both sponsored and participated in anticorruption conferences around the world. U.S. officials have also hosted and attended many government-private sector informational meetings on anticorruption matters. And they have solicited the views of many individual private sector entities regarding international anticorruption strategies in the OECD and other international forums, such as the United Nations, the World Trade Organization, the Organization of American States, and the Asia-Pacific Economic Cooperation forum. In short, the U.S. government has sought to ensure that the experiences of the private sector play an important role in shaping U.S. anticorruption strategy and that private sector representatives have an opportunity to present their views on the Convention.

Efforts to Engage the Private Sector on the Convention

The Clinton Administration has maintained an active dialogue with the private sector on how to address the problem of bribery of foreign public officials and support effective implementation of the Convention. In 1999–2000, Secretary William Daley,

Treasury Secretary Lawrence Summers, Secretary of State Madeleine Albright, and other senior officials of those agencies and the Department of Justice raised the Convention and bribery issues in many different contacts with private sector groups. Shortly before the Convention came into force in February 1999, Secretary Daley gave a major speech to the board of directors of Transparency International recognizing its work in monitoring corruption and promoting implementation of the Convention. Later in February, several U.S. officials underscored the importance of the Convention in their remarks to the U.S.-sponsored Global Forum on Fighting Corruption, which many private sector representatives attended. In January 2000, Secretary Albright gave prominent attention to the Convention and the need for effective implementation by all signatories in a speech to business executives at the World Economic Forum held in Davos, Switzerland. On separate occasions, other senior Commerce, State, and Justice officials, including the under secretaries responsible for international trade and business affairs, have also engaged private sector representatives in discussions on the Convention and the need for strong enforcement of antibribery legislation. In addition to these senior-level contacts, officials of the Commerce, Justice, State, and Treasury departments have been communicating with the private sector on Convention-related issues in a variety of other channels.

U.S. officials have provided information on the Convention to the private sector by participating in numerous meetings on the Convention held by corporations, law firms, and business associations, such as the National Association of Manufacturers and the Business Roundtable. In addition, U.S. officials regularly attend meetings with groups that have a strong interest in combating international corruption, including Transparency International, the American Bar Association Task Force on International Standards for Corrupt Practices, the U.S. Council for International Business, and the International Organization of Employers.

U.S. agencies are also making use of the existing advisory committee structure as a forum for dialogue with the private sector when discussions go beyond the exchange of information and into the solicitation of recommendations of advice on specific matters of policy. For example, the Department of Commerce maintains an ongoing dialogue with the private sector through its regularly scheduled meetings of Industry Sector Advisory Committees, Industry Functional Advisory Committees, and the President's Ex-

port Council. Commerce has raised the issue of international bribery before the Transatlantic Business Dialogue (TABD), a public/private partnership in which U.S. and European Union businesses meet to discuss transatlantic trade barriers and relay their findings to governments. TABD members have stressed the importance of fighting corruption and bribery at all of their annual conferences. The State Department receives input on bribery issues through its Advisory Committee on International Economic Policy. Over the past year, the committee discussed implementation of the Convention at three of its meetings.

In addition, the U.S. private sector has participated in monitoring the Convention through international business groups, such as the OECD's Business and Industry Advisory Committee (BIAC), an officially recognized advisory group composed of private sector representatives from OECD member countries. BIAC has strongly supported the Convention and spoken out frequently on the need to fight corruption and bribery. The OECD's Trade Union Advisory Committee has also endorsed the Convention and its effective implementation.

The U.S. government will continue to work with the private sector and nongovernmental organizations, like Transparency International, and will seek to include other organizations in its dialogue on corruption issues. The International Trade Administration's Trade Compliance Center is using its Compliance Liaison Program and other private sector initiatives to enlist the cooperation of the private sector in monitoring bribery of foreign public officials and implementation of the Convention. The business community and nongovernmental organizations can help by providing the U.S. government with additional "eyes and ears" for tracking bribery and possible violations of the standards in the Convention. Individuals, companies, and nongovernmental organizations can report this information directly on the Trade Compliance Center's Trade Complaint Hotline.

The U.S. government, for its part, will continue to share as much information as possible about the monitoring process with the private sector. U.S. officials respond to public inquiries on the Convention and the status of its implementation on a daily basis. The Commerce, Justice, and State departments have posted the Convention and related commentaries, as well as the full text of the IAFCA and other background materials, on their websites. The Justice Department has also posted on its website the responses of the United States to the OECD Phase I Question-

naire on our implementing legislation and the full text of the FCPA. Commerce has provided detailed information on the status of the implementation of the Convention by our trading partners. Commerce's Trade Compliance Center has included on its website an Exporters' Guide to help businesses understand key provisions of the Convention. In addition, the U.S. Office of Government Ethics has a website with information on anticorruption issues.

In summary, the U.S. government has strived over the years to build a strong working relationship with the U.S. private sector in order to combat international bribery and corruption. U.S. officials are committed to maintaining this valuable relationship as they seek to ensure effective implementation and enforcement of the Convention.

